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Confronting Genocide in Africa

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The government-led effort to exterminate Rwanda's Tutsi and moderate Hutu took at least a million lives...The killers, armed mostly with machetes and clubs, nonetheless did their work five times as fast as the mechanized gas chambers used by the Nazis...The international community, together with nations in Africa, must bear its share of responsibility for this tragedy, as well. We did not act quickly enough after the killing began. We should not have allowed the refugee camps to become safe havens for the killers. We did not immediately call these crimes by their rightful name: genocide. -William Jefferson Clinton¹

The chain of events that led the President of the United States thus to apologize for events in Rwanda show deliberate efforts on the part of U.S. government officials to avoid characterizing what was happening in Rwanda as a genocide. This paper will examine key bureaucratic, personal and policy factors in the United States, France and the United Nations leading to their respective reactions to the Rwandan genocide that began on April 6, 1994. Between that date, when an airplane carrying the Presidents of Rwanda and Burundi was shot down in still-mysterious circumstances, and June 22, when the French *Opération Turquoise* intervention force arrived, upwards of a million Rwandan Tutsis and moderate Hutus were slaughtered with the incitement and direction of the government of Rwanda.

This paper will examine whether the Rwandan experience makes it likely the U.S. government would or could act differently in a similar crisis in the future. The paper will also look at the effect that the Convention on Genocide has had on governmental decision-making, arguing that it has paradoxically become a brake upon, rather than an assurance of, prompt government action in the face of genocide.

I

¹ William Jefferson Clinton, *Remarks Honoring Genocide Survivors in Kigali, Rwanda, 25 March 1998* [1998 Presidential Documents Online] (U.S. Government Printing Office, 25 March 1998 [cited 6 January 2003]); available from frwais.access.gpo.gov.

The American Bureaucratic Context. The State Department's Bureau of African Affairs had the prime responsibility for proposing and executing U.S. policy toward Rwanda. The Bureau was headed by Assistant Secretary of State George Moose, a career diplomat and one of the most senior African-Americans in the Department at the time. He was out of Washington on travel for much of April 1994, notably in connection with the end of apartheid rule in South Africa. In his absence the Bureau was run by his Principal Deputy Assistant Secretary, Prudence Bushnell. From public statements, it is clear that the prime preoccupation of the Bureau, as well as of Secretary of State Warren Christopher, for most of April 1994, was on protecting the lives of Americans and evacuating the Embassy in Kigali. Looking back at the whole Rwanda episode, Bushnell acknowledged in 2001 that she knew what was happening, tried to stop the genocide and failed, and described her failure to do so as "source of personal shame and sadness."²

The Africa Bureau was in daily contact with the U.S. Embassy in Kigali. The Ambassador, David Rawson, a career diplomat who had grown up as a child of missionaries in neighboring Burundi, spoke the Kirwanda language and knew the country and region exceedingly well. He nevertheless acknowledged in retrospect that he and other diplomats were "so focused on trying to find some agreement that we didn't look harder at the darker side."³

Deputy Assistant Secretary of Defense James Woods, who oversaw Africa policy in the International Security Agency at the Pentagon and who unsuccessfully sought at the outset of the Clinton Administration to have Rwanda and Burundi placed on a list of potential crises, recalls that "people didn't want to really grasp and admit that they knew

² Samantha Power, "Bystanders to Genocide: Why the United States Let the Rwandan Tragedy Happen," *The Atlantic Monthly*, September 2001, 28.

³ Power, 27.

and understood what was happening because they didn't want to bear the consequences then of dealing with it. They did not want an intervention.”⁴

At the National Security Council, Donald Steinberg, a career diplomat, was senior director for African Affairs, but was outmaneuvered by experienced bureaucratic infighter Richard Clarke, the Senior Director for Peacekeeping, who ensured that humanitarian interests were trumped by peacekeeping policy considerations. Steinberg later reportedly suffered from a sense of guilt and depression over his role in the Rwanda crisis.⁵ Clarke, for his part, was the author and enforcer of Presidential Decision Directive 25 (PPD-25), which severely restricted the circumstances under which the U.S. would countenance a peacekeeping mission or support for a U.N. peacekeeping mission, and which effectively ensured that no U.S. intervention in Rwanda would occur.⁶ Power reports Clarke as unapologetic for his role in preventing action in Rwanda.⁷

Susan Rice was one of Clarke's up and coming staffers who would become Assistant Secretary for African Affairs in the second Clinton administration. Power reports that Rice asked (but later denied asking) in an interagency meeting about the effect of the use of the word “genocide” on the fall elections. Rice later acknowledged she should have come down on the side of dramatic action.⁸ Some observers close to events at the time believe the primary interest at the White House was not so much reality as spin: if an issue could not be kept off CNN then ensure the U.S. was perceived as

⁴ Steve Bradshaw and Ben Loeterman, *Frontline: The Triumph of Evil: Transcript* [Website] (Public Broadcasting Service, February 1999 [cited 26 March 2003]); available from <http://www.pbs.org/wgbh/pages/frontline/shows/evil/etc/script.html>.

⁵ Power, 27.

⁶ Michael Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda* (Ithaca, NY and London: Cornell University Press, 2002) 41, 139.

⁷ Power, 22.

⁸ Power, 27.

doing something, even if that something was inadequate, as in dropping food on Rwanda.⁹

In written accounts of the Rwanda genocide, the figure that normally takes the lead in formulating U.S. Africa policy, the Assistant Secretary for African Affairs and the Senior Director for Africa at the National Security Council, is notable only by his absence. The national leadership was preoccupied with Haiti and Bosnia. During the time of the genocide, President Clinton never assembled his top policy advisors to discuss Rwanda, and National Security Advisor Anthony Lake never convened a Principals Meeting on the matter. Capitol Hill was quiet about it and the Washington Post editorialists discerned no American national interest in Rwanda.¹⁰ Well into the crisis, the only extensive U.S. media coverage concerned the plight of the refugees fleeing into Zaire, which led the Clinton Administration to authorize a U.S. military feeding and watering operation in Goma, Zaire.¹¹

The Presidential Decision Directive on Peacekeeping, known after signature as PDD-25, was drafted in early 1994 and signed by President Clinton on May 4. It represented an institutionalization of the “Somalia Syndrome,” best characterized as a national conviction that armed intervention, particularly in Africa, must be accomplished, if at all, by no American casualties. It created an atmosphere of reluctance to intervene in Africa. The thinking contained in this document permeated bureaucratic decision-making at the time of the Rwandan genocide. The spectacle of American soldiers’ corpses dragged through the streets of Mogadishu was a fiasco and a tragedy for anyone

⁹ David Halberstam, *War in a Time of Peace: Bush, Clinton and the Generals*. (Touchstone, 2001) 275.

¹⁰ Power, 16.

¹¹ Steven Livingston and Todd Eachus, "Rwanda: U.S. Policy and Television Coverage," in *The Path of a Genocide: The Rwanda Crisis from Uganda to Zaire*, ed. Howard Adelman and Suhrke Astri (New Brunswick, New Jersey and London: Transaction Publishers, 1999) 209.

who thought America had a bigger role to play in peacekeeping in the early 1990s. For Bosnia, Kosovo and Rwanda, help would come later rather than sooner.¹² Against this policy backdrop, after the mists cleared on what was happening in Rwanda by late April, the highest levels of the U.S. government made a conscious decision not to act in Rwanda.¹³

Avoiding the Genocide Label. A State Department official who participated in meetings concerning the Rwanda crisis recalls a late April 1994 meeting chaired by Acting Assistant Secretary of State Prudence Bushnell, at which the United States' options in the face of widespread violence in Rwanda were discussed. A representative of the Office of the Legal Advisor of the State Department who cautioned all present that the word "genocide," because of the obligations the word implied, had to be avoided in official pronouncements of the State Department.¹⁴ The word had been used in an analytical article published by the State Department's Bureau of Intelligence and Research the day before. Use of the word, that official cautioned, would oblige the United States to take action under the terms of the Genocide Convention.¹⁵ This meeting was apparently the source of the use of the tortuous phrasing, which pervaded public pronouncements and instructions as late as June 10, when State Department spokesperson Christine Shelly, stated, when pressed, that "we have every reason to believe that *acts of genocide* have occurred."¹⁶

¹² Halberstam, *War in a Time of Peace: Bush, Clinton and the Generals*. 264.

¹³ Bradshaw, *Frontline: The Triumph of Evil: Transcript* (cited).

¹⁴ Confidential source interviewed on 7 January 2003.

¹⁵ *Convention on the Prevention and Punishment of the Crime of Genocide (Resolution 260 (III) of the U.N. General Assembly, Adopted 9 December 1948)*, (12 January 1951).

¹⁶ Bradshaw, *Frontline: The Triumph of Evil: Transcript* (cited).

Responsibility. A number of writers have argued forcefully that the failure of the United States government swiftly to intervene in Rwanda in 1994 permitted a genocide to occur.¹⁷ That judgment presumes that the United States could have and should have understood what was going on in Rwanda in 1994 and that it had the means to suppress a rapidly-evolving genocide in a timely fashion. But labeling an incipient crisis as a genocide is not a decision that the U.S. government is inclined to make hastily. As the U.S. Ambassador-at-Large for War Crimes has observed, “determining whether genocide or widespread or systematic crimes against humanity have occurred requires us first to try to find out what are the facts. Identifying genocide as it unfolds is no simple endeavor despite its obvious character when viewed in retrospect. Media accounts must be weighted with diplomatic observations, intelligence reports, and reporting by human rights NGOs. Nor is it possible, usually, to ascertain easily -- in real time -- the necessary intent required by the Genocide Convention to establish the crime of genocide.”¹⁸

It is clear that from April 4 through at least April 21, the United States government was looking at and treating what was going on in Rwanda as a particularly bloody civil war. As one State Department official who participated in many meetings on Rwanda at the time observed, “for the first several weeks we were looking and thinking about Rwanda in terms of an ongoing battle between two sides.”¹⁹ In what has been termed a “fog of genocide,”²⁰ the perpetrators of the killings did their best in fact to portray events subsequent to the April 4 shoot-down of the presidential aircraft as a civil

¹⁷ See, for example, Allison Des Forges, *Leave None to Tell the Story: Genocide in Rwanda* (New York, Washington, London and Brussels: Human Rights Watch, 1999).

¹⁸ David Scheffer, "The United States: Measures to Prevent Genocide" (paper presented at the Genocide and Crimes Against Humanity: Early Warning and Prevention, Washington, December 1998).

¹⁹ Confidential source interviewed January 8, 2003.

²⁰ Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda*, 97.

war, to obscure what they were doing and to get foreigners to leave. They enjoyed a degree of success. The targeting and murder of ten Belgian peacekeepers resulted in the complete withdrawal of Belgians and in the U.N. Security Council's *reduction* in the number of peacekeepers authorized in UNAMIR.²¹

Romeo Dallaire, the UNAMIR commander, believed he could stop the incipient genocide with a sufficient mandate under Chapter VII of the U.N. Charter, and requested just that, although the authority was never granted to him.²² Others, however, dispute whether in any event intervention could have been accomplished swiftly enough to have a significant effect. Barnett opines that even the U.N. Security Council's April 21 vote to reduce the size of the UNAMIR peacekeeping mission can be defended due to the persistent perception that this was a civil war, but that the genocide became too clear to ignore after that date.²³

The Role of Nongovernmental Organizations. Prevention of genocide is not exclusively the realm of states. NGOs and news organizations played a key role in bringing the Rwanda genocide to the attention of the world, in seeking action, and in blaming for inaction. Allison Des Forges of Human Rights Watch has recounted not only the events of the Rwanda genocide but the kernel of the U.S. policy context, including the American administration's avoidance of the use of the term genocide.²⁴ The single-issue focus of NGOs such as Human Rights Watch is of course narrower than that of governments, but their pulling incipient genocide into the light of international opprobrium is crucial. They can be on the spot, close to the most vulnerable members of

²¹ *United Nations Security Council Resolution 912 (1994)*, (21 April 1994).

²² Scott R. Feil, "Preventing Genocide: How the Early Use of Force Might Have Succeeded in Rwanda," (Washington: Carnegie Corporation of New York, 1998) 7-10.

²³ Barnett, 130.

²⁴ Des Forges, *Leave None to Tell the Story: Genocide in Rwanda*. 19-20.

the societies in which they live, where few diplomats would tread, and are often among the first to call attention to human suffering and human rights abuses. Their presence and activities, by their own design, can facilitate dialogue, relationship building and healing in ethnically-torn societies, the kind where genocides can occur.²⁵ Indeed, it can justifiably be argued, that without the raised voices of NGOs, the Rwandan genocide might have occurred with little recognition as a genocide from the world at large.

II

The French Bureaucratic Context. In France, personalized, high-level political and military connections with the Rwandan Hutu leadership created a reluctance to condemn those leaders even when their authorship of genocide became apparent. Jean-Christophe Mitterrand was the son of the then-French President François Mitterrand and was his advisor on African Affairs in the early 1990s, although not at the time of the Rwandan genocide. He was heckled in the French National Assembly in 1998 for denying any close or personal relationship with the son of the late President Habyarimana of Rwanda in the course of his testimony about French governmental actions during the 1994 Rwanda crisis.²⁶ France had long had close ties with its ex-colonies in French-speaking Africa, and with Habyarimana's Rwanda, even though it had been a Belgian, rather than a French colony, had enjoyed particularly warm relations with Mitterrand ever since it publicly subscribed to the French doctrine, enunciated at the Franco-African Summit in La Baule in 1989, of directing more bilateral aid toward countries that were actively embracing democratization. The French government was not oblivious to the risks of ethnic slaughter. But Rwandan President Habyarimana had convinced President

²⁵ Kenneth Hackett, "The Role of International NGOs in Preventing Conflict," in *Preventive Diplomacy: Stopping Wars before They Start*, ed. Kevin M. Cahill (New York: Basic Books, 1996) 269.

²⁶ Personal observation of the author.

Mitterrand as early as 1983 (according to Mitterrand's first Africa counselor) that the Habyarimana government was the best guarantor that there would be no repeat of the anti-Tutsi pogroms of the past.²⁷ Rwanda became a major recipient of French development aid and military assistance up to 1994, although arms shipments officially ceased in 1993 with the signature of an all-too-temporary peace accord between the Hutu-based government and Tutsi rebels.²⁸

Media and nongovernmental organization pressure put the possibility of a French intervention to stop the genocide on France's domestic political agenda.²⁹ Whether for glory, anglophone/francophone *realpolitik* or to cover France's back, Prime Minister Juppé on June 15 announced France's intention to send in a well-armed 2,500 force, *Opération Turquoise*, to end the genocide.³⁰ *Opération Turquoise* received the approval of the U.N. Security Council (including the United States after considerable hesitation), deployed to Rwanda on June 22, and did succeed in stopping the genocide. France earned little but criticism and media accusations that it intervened to save its erstwhile Hutu allies rather than the Tutsis.³¹ French officials told the author of this paper repeatedly in subsequent years that this incident convinced them never to intervene alone again in Africa, even though they did intervene unilaterally in the Comoros in 1995 and in Côte d'Ivoire in 2003, albeit under very different circumstances.

²⁷ Guy Penne, *Mémoires d'Afrique (1981-1998): Entretiens Avec Claude Wauthier* (Paris: Librairie Arthème Fayard, 1999) 206.

²⁸ Agnes Callamard, "French Policy in Rwanda," in *The Path of a Genocide: The Rwanda Crisis from Uganda to Zaire*, ed. Howard and Suhrke Adelman, Astri (New Brunswick, New Jersey, and London: Transaction Publishers, 1999) 167-176.

²⁹ Linda Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* (London and New York: Zed Books, Ltd., 2000) 137-142.

³⁰ Gerard Prunier, *The Rwanda Crisis: History of a Genocide* (New York: Columbia University Press, 1995) 281.

³¹ Gerard Prunier, "Operation Turquoise: A Humanitarian Escape from a Political Dead End," in *The Path of a Genocide*, ed. Howard; Suhrke Adelman, Astri (New Brunswick, New Jersey and London: Transaction Publishers, 1999) 284.

Former Assistant Secretary of State for African Affairs Hank Cohen, who left office about a year before the genocide, faults the French, who arguably knew the country better than any other outsider, for failing to notice genocidal trends before the event and for failing to use their leverage for conflict resolution, instead effectively signaling to the Habyarimana government that they could count on French backing no matter what.³² A French investigative journalist goes further, and accuses President Mitterrand, through his son, of having knowingly helped built up the Rwandan Armed Forces from 4,000 to 50,000 in the course of the 1990's while turning a blind eye to a steady climb in ethnic killings.³³

III

The United Nations Bureaucratic Context. The early 1990's were a time of remarkable growth in the number of peacekeeping operations conducted by the United Nations, primarily through its Department of Peacekeeping Affairs (DPKO) then under the direction of future Secretary-General Kofi Annan. The multiplicity of new peacekeeping missions, the paucity of logistic support for the same, and the inherent difficulties of managing multiple multinational forces in different countries, created an inability to cope with an extraordinary situation. No one knew this better than Canadian General Romeo Dallaire, commander of the ill-fated UNAMIR peacekeeping force that was present in Rwanda during the lead-up and execution of the genocide, who spent

³² Herman J. Cohen, "Rwanda: Could We Have Prevented Genocide?," in *Intervening in Africa: Superpower Peacemaking in a Troubled Continent, The ADST-DACOR Diplomats and Diplomacy Series* (Houndmills, Basingstoke, Hampshire and London: Macmillan Press Ltd., 2000; reprint, New York: St. Martin's Press, LLC, 2000) 163-180.

³³ Pascal Krop, *Le Génocide Franco-Africain: Faut-Il Juger Les Mitterrand?* (Paris: Editions Jean-Claude Lattès, 1994) 89.

upwards of 70 percent of his time battling the U.N. logistics system, and who was later discharged from the Canadian Army, suffering from post-traumatic stress syndrome.³⁴

DPKO did not act as an independent actor, of course. It was under the direction of the Secretary General, on whom it had to depend for its own resources and personnel, and it carried out mandates that were voted by the Security Council, including a veto-wielding United States increasingly impatient with the ballooning costs of U.N. peacekeeping, one-third of which costs were routinely billed to the United States.³⁵ Debates among members of the Security Council in April and May 1994 were characterized by extreme caution about taking action in Rwanda, an effort to avoid use of the word “genocide” for the same reasons U.S. bureaucrats hesitated: they worried that use of the word would imply a legal or at least a moral obligation under the Genocide Convention to take action.³⁶

The U.N. Secretariat’s initial reluctance to authorize a small contingent of blue-helmeted troops to take action against forces directed by a member state is understandable in the absence of a Security Council mandate to do so. Moreover, the United Nations had at least some reason to believe that diplomatic efforts would suffice. The Rwandan government had signed a peace accord with Tutsi rebels in 1993. Also in 1993, an incipient genocide in Rwanda’s neighboring state, Burundi, of similar size, history and ethnic composition as Rwanda, was nipped in the bud by energetic diplomacy. The U.N. Secretary General’s Special Representative to mediate that crisis, the widely-respected Ambassador Amédou Ould-Abdallah, has written a detailed account of the patient diplomacy he employed in Burundi at that time to stem a genocide that

³⁴ Power, 5, 28.

³⁵ Power, 5.

³⁶ Des Forges, 19-20.

started with the slaughter of some 50,000 Tutsis in that country subsequent to a Tutsi-led coup against a legitimately-elected Hutu-dominated government. His account is a testament to the fact that diplomacy can in fact work, and that there is indeed useful action more vigorous than a stern demarche, yet far short of an armed intervention. The key factors for success, in Ould-Abdallah's assessment, included a sustained, coherent, multifaceted approach among key international actors, and a single strong lead player on the diplomatic front.³⁷

The United Nations' palette of instruments of international power in Rwanda was not exclusively military, of course. The possibility of jamming the hate radio via which the Rwandan regime was actively directing the genocide was raised, for example, but the U.N. did not have its own capacity to do this, and the U.S proved unwilling. There was also a Special Representative of the United Nations' Secretary-General on the ground in the person of career Cameroonian diplomat Jacques-Roger Booh-Booh. The public record, however, reveals little action undertaken by Booh-Booh other than sending in reports to New York. His role in the face of the crisis was a largely passive one of awaiting instructions rather than proposing action. He was not the strong lead player that Ould-Abdallah had been in Burundi.

IV

Lessons Learned: Could Intervention Have Worked? Despite arguments,³⁸ including those of President Clinton himself, that faster action would have been able to put an end to genocide, it is questionable whether any action, other than a much earlier reinforcement of UNAMIR, had a chance of saving substantial numbers of lives given the

³⁷ Ahmedou Ould-Abdallah, *Burundi on the Brink 1993-95: A UN Special Envoy Reflects on Preventive Diplomacy, Perspectives Series* (Washington: United States Institute for Peace Press, 2000). 110-111.

³⁸ Feil, *Preventing Genocide: How the Early Use of Force Might Have Succeeded in Rwanda*, 7-10.

degree of determination of the authors of this genocide. The astounding balance sheet of 800,000 to a million slaughtered in the course of a hundred days from the April 4 shootdown of the Presidents' plane to the July arrival of *Opération Turquoise*, surpassed, as President Clinton noted, the killing rate of the mechanized death factories of the Nazis.³⁹ In Kuperman's view, the realities of the time required for a substantial American military intervention, combined with the swiftness with which the genocide was carried out, cast grave doubts on the likelihood of a successful intervention.⁴⁰

Genocide: A Question of Definitions. In order to intervene in a genocide, it must first be recognized as such. The notion of genocide is recent in human history. The term was coined by Raphael Lemkin in 1944 to describe the Holocaust of Jews in Europe, because "mass murder" was inadequate to describe the crime, or more importantly, the motivation, which is to destroy an entire nation or ethnic group. Lemkin defined the new concept as "a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the intent of annihilating the groups themselves."⁴¹ Winston Churchill also sensed the need for a new word when he referred to the Holocaust as a "crime without name."⁴²

Despite the international consensus on the need to confront genocide with a norm of international law, there remain problems in the definition, prompted, as it was, by the specifics of the Holocaust. "The Convention, which defined the crime as "a systematic

³⁹ William Jefferson Clinton, *Remarks Honoring Genocide Survivors in Kigali, Rwanda, 25 March 1998* [1998 Presidential Documents Online] (U.S. Government Printing Office, 25 March 1998 [cited 6 January 2003]); available from frwais.access.gpo.gov.

⁴⁰ Alan J. Kuperman, *The Limits of Humanitarian Intervention: Genocide in Rwanda* (Washington: The Brookings Institution, 2001) 109.

⁴¹ R. J. Rummel, *Death by Government*, 3rd paperback ed. (New Brunswick, New Jersey and London (U.K.): Transaction Publishers, 2002) 32.

⁴² Alain Destexhe, *Rwanda and Genocide in the Twentieth Century*, trans. Alison Marschner (New York: New York University Press, 1995; reprint, Reprinted 1996) 2-3.

attempt to destroy, in whole or in part, a national, ethnic, or religious group as such," was both under-inclusive (excluding Pol Pot's attempted extermination of a political class) and over-inclusive (potentially capturing a white racist's attempt to cause bodily injury to a carload of African-Americans). But, because it was drafted in order to satisfy all the major powers, it also ended up with wording so imprecise that the genocide label quickly became a political tool."⁴³ The difficulties inherent in the word have led to the coining of even newer terms. "Politicide" is "the murder of any person or people because of their politics or for political purposes," and "democide" is the murder of any person or people by a government, including genocide, politicide and democide."⁴⁴

Inherent in the difficulty of properly identifying a genocide is that the intent of the perpetrators to destroy an ethnic group is a key element. Intent can be difficult to judge, especially from afar. Moreover, the notion of genocide, being such powerful concept, has suffered from frivolous, rhetorical and hyperbolic usage, such as AIDS activists characterization of President Reagan's reluctance to fund additional AIDS research as "genocide against homosexuals."⁴⁵

Is Something Wrong with The Genocide Convention? In reaction to the Nazis' systematic murder of Jews in World War II,⁴⁶ member states of the United Nations General Assembly adopted a draft Convention on Genocide in 1948 which was opened for signature as a treaty and which entered into force in 1951, eventually ratified by most

⁴³ Samantha Power, *Never Again: The World's Most Unfulfilled Promise* [Website] (1998) [cited 23 March 2003]; available from [http://www.pbs.org/frontline/theworld's most wanted man genocide and war crimes never again.htm](http://www.pbs.org/frontline/theworld's%20most%20wanted%20man%20genocide%20and%20war%20crimes%20never%20again.htm).

⁴⁴ R. J. Rummel, *Death by Government*, 31.

⁴⁵ Samuel Totten, "'Genocide,' Frivolous Use of the Term," in *Encyclopedia of Genocide*, ed. Israel W. Charny (Santa Barbara: ABC-CLIO, Inc., 1999).

⁴⁶ W. Michael and Chris T. Antoniou Reisman, ed., *The Laws of War: A Comprehensive Collection of Primary Documents and International Laws Governing Armed Conflict* (New York: Vintage Books, 1994) 84.

countries on earth. It memorialized as a norm of international law the principle, already recognized and enforced at the Nuremberg Trials, that genocide was a crime against humanity, and thus deserving of all humanity's attention and legal suppression on a mandatory basis. Why is it then, a half-century after the Holocaust, that policy-makers in two states, France and the United States, that pride themselves on championing the international protection of human rights engaged in mental gymnastics to avoid even using the word?

The author believes there are flaws in the structure of the Convention on Genocide that acts as a brake on the very action that the Convention so urgently seeks. The Convention, by its own terms, requires action in the face of genocide, and says so in unequivocal terms: "The Contracting Parties confirm that genocide...is a crime under international law which they undertake to prevent and to punish."⁴⁷ The Convention thus both sets a standard and mandates action in the face of genocide. The action it mandates, however, is not a single action nor is the same action be required in all circumstances.

A Spectrum of Possible Responses to Genocide. What are states to do in the face of a genocide? No single one-size-fits-all solution is possible and a range of options are present depending on the circumstances. An internationally-mandated armed intervention to topple a genocidal government, an expensive, complex and risky action at best, is at one end of the spectrum of possible international reactions to an actual or incipient genocide. At the opposite end of this spectrum would be governmental exhortations, delivered in private by an individual state to the offending state, not backed by even the hint of a possible use of force, that the genocidal state cease and desist. In the middle lies a range and a mix of possible actions, reflecting the range of instruments

⁴⁷ *Convention on the Prevention and Punishment of the Crime of Genocide*. Article I.

of national and international power. Primarily recourse tends to be diplomatic in nature. Economic sanctions, slow by their nature, seem particularly unsuitable.

Policymakers worldwide are accustomed to making policy, rather than receiving pre-made policy with an international mandate to put that policy into execution. Policymakers are accustomed to making fine distinctions, to weighing the pros and cons, foreign and domestic, to exploiting ambiguity, to deciding when and when not to take action and to leaving room for compromise in formulating their own policies. They are accustomed to writing and enforcing laws, but not accustomed to being instructed by a decades-old treaty as to what policy decisions to take.

The exercise of taking policy guidance from a treaty is far different from the process of referring to one's own constitution, even one that recognizes that treaties are the law of the land.⁴⁸ Two hundred ten years of jurisprudence guide American policymakers in their reading of the Constitution, but the statutory construction of the Convention Against Genocide is terra incognita.

Despite the key American role in the drafting of the Genocide Convention, that treaty, although submitted to the Senate for ratification by Harry Truman, did not receive advice and consent until 1988. That adoption was with reservations, (motivated by concern about the history of slavery and of U.S. relations with Native Americans) ensuring that the U.S. would not submit to the jurisdiction of the International Court of Justice should allegations of genocide be leveled against the United States.⁴⁹

The action required of states that become aware of genocide is mandatory under the Convention but unspecific, and hard to quantify. The action at one end of the

⁴⁸ U.S. Constitution, Article III.

⁴⁹ Power, *Never Again: The World's Most Unfulfilled Promise* (cited).

spectrum, an armed intervention, is also subject to the constraints of domestic resources for war, and a just war analysis. In general, states should only resort to armed force when other measures are insufficient, the requirement of necessity, which implies that armed intervention is not the first resort, but the last.

Attempted Improvement: The African Crisis Response Force. The author of this paper, as Africa-watcher in the political section at the U.S. Embassy in Paris from 1994 to 1998, and was instructed repeatedly to open a dialogue with the French government about contingency planning for an intervention in Burundi. The French government declined for a variety of reasons. In early 1997, President Clinton authorized the State Department to begin consultations with foreign governments on forming an “African Crisis Response Force,” (ACRF), consisting of African military units which would be receive U.S. training and equipment for the purpose of carrying out peacekeeping tasks in Africa. Two interagency teams visited a series of European and African countries to present the idea and seek support. The author briefed the team that visited Paris, headed by Nancy Soderberg of the NSC, and accompanied them to their meetings with French officials. Burundi was mentioned as an immediate example of a place where ACRF training could be put to use very soon. After a year of diplomatic negotiation, the ACRF had been transformed into the African Crisis Response Initiative (ACRI), with European supporters, and parallel French and British programs and African partners. Despite all the effort that went into the ACRF/ACRI, it would have little to no direct effect on a hypothetical genocide starting in the near future. The purpose was to seek an African solution to African problems at a time when demands on U.S. troops

elsewhere militated against their being dispatched to remote areas far from the top of the list of U.S. strategic or vital interests.

Attempted Improvement: Genocide Early Warning. In the course of the 1990s, academics and politicians wrestled with ways to identify genocides early enough to save lives. The U.S. Holocaust Memorial Museum sponsored a conference on the subject in 1998,⁵⁰ and the author, then a supervisory analyst in the State Department's Office of Analysis for Africa, saw drafts of various models of genocide prediction that had emerged from the academic community on contract to the U.S. government. By the late 1990's, U.S. analysts were instructed to track possible indicators of genocide, and regular in-house reports of the same were published. This was not the practice at the time of the Rwanda genocide. It should also be recognized that, despite early warning signs more easily recognizable in hindsight, the Rwanda genocide took a while for the bureaucracy to digest and distinguish from a garden-variety civil war, given the vast scale and deliberate efforts at deception on the part of the genocidal leadership. Single-issue human rights advocates understandably argue to the contrary.

Attempted Improvement: Robust Mandates for Peacekeepers. In part, General Dallaire needed to refer back to New York about his UNAMIR mandate because his force was operating under a Security Council mandate based on Article VI of the U.N. Charter (Pacific Settlement of Disputes). To take vigorous anti-genocidal measures, he clearly would have needed to operate under Chapter VII (Actions With Respect to Threats to Peace). A study of a series of U.N. peacekeeping operations, including several fiascoes, completed in 2000 (known as the Brahimi Report) recommends that future U.N.

⁵⁰ *Genocide and Crimes against Humanity: Early Warning and Prevention* (U.S. Holocaust Memorial Museum, 1998 cited 23 March 2003); available from http://www.ushmm.org/conscience/events/conference_98/conference.php.

peacekeeping missions be endowed with more robust Chapter VII mandates to be better able to deal dangerous and changing circumstances.⁵¹ Its recommendations are widely accepted among Security Council members.

What Could Be Done Differently Today? President Clinton's policy as enunciated on the tarmac at Kigali raises the question of what, if anything, could the United States do today in the face of an incipient genocide, say, in Bujumbura, Burundi, about sixty miles to the south, where the ethnic mix identical to that of Rwanda, and which has experienced multiple bouts of Hutu/Tutsi killings over the course of fifty years.⁵² The author of this paper posed that question in April 1997 to Joseph Wilson, then Senior Director for African Affairs at the National Security Council, who was the principal drafter of the Clinton speech in Kigali excerpted at the head of this paper. Wilson acknowledged that "we're not there yet," and could not articulate how Clinton's rhetoric would translate into concrete action in Burundi.

The author was Deputy Chief of Mission at the U.S. Embassy in Bujumbura from October 2000 to July 2002. A civil war waged by Hutu rebel groups against a Tutsi-dominated government has continued there for nearly a decade, and the specter of genocide has been a constant in Burundi since at least 1993. The subject was raised regularly by Burundian contacts of the Embassy, and the fact that genocide prevention was a primary reason for maintaining a diplomatic presence was one the author raised in Country Team meetings and in communications with officials at the State Department through three serious considerations of evacuating the embassy, two attempted coups d'état, repeated rebel incursions into the capital, and near-weekly instances of small-scale

⁵¹ Lakhdar Brahimi, "Comprehensive Review of the Whole Question of Peace Operations in All Their Aspects," (New York: United Nations Secretariat, 21 August 2000).

⁵² Ould-Abdallah, *Burundi on the Brink 1993-95: A UN Special Envoy Reflects on Preventive Diplomacy*.

ethnically-based murders. As had colleagues in Rwanda in the 1990's, the staff of Embassy Bujumbura and the State Department put much energy in supporting a negotiated peace process. President Clinton himself came to witness the signature of the Arusha Peace Accords for Burundi in 2000.

In his prepared remarks in his confirmation hearings as Secretary of State, Colin Powell mentioned only two countries by name: Russia and Burundi. A visitor from Washington hand-carried an advance copy of Samantha Power's article, *Bystanders to Genocide*, to us in Bujumbura in August 2001, and embassy officers were informed us that it had been read by Secretary of State Powell and President Bush. The fact that the President had made handwritten comments on the margin of the article to the effect that the United States should not sit on the sidelines again in the face of possible genocide in Burundi reinforced Embassy leadership in its conviction that a continued diplomatic presence in Burundi served a significant national interest. In drafting Bujumbura's Mission Performance Plan, the author explicitly included genocide prevention as the centerpiece of our preventive diplomacy and aid programs.

Conclusion. There exists a basis for hope that the United States government would act differently and more effectively with respect to incipient genocide in Africa today than it did toward the one in Rwanda. In 1994, the world witnessed its remaining superpower resorting to every doubtful verbal artifice to avoid taking action it had committed itself to in signing the Genocide Convention. Policymakers of the United States were guided by a Mogadishu-generated policy mindset of avoiding the commitment of peacekeepers to Africa, by a lack of immediate press or Congressional interest in the Rwandan crisis, and by already-underway crises in Bosnia and Haiti. The

result was disinterest in the Rwandan genocide at the highest levels of the U.S. Government. It was a matter of not just failing to act, but, as noted by Michael Barnett, a foreign service officer who served at the U.S. Mission to the United Nations at the time of the genocide, of the U.S. government making a conscious decision not to act.⁵³

The U.S. government under the Bush Administration has moved a long distance from the zero-casualty standard for the employment of U.S. forces that was applied post-Somalia, and has enshrined both the national commitment to oppose genocide and the willingness to use force preemptively into the September 2002 National Security Strategy.⁵⁴ The personal, if passing, attention lent by both the President and the Secretary to Central Africa, as well as a determination not to repeat mistakes of the past suggest that genocide cannot take place there again without a vigorous U.S. response. Moreover, the opprobrium suffered by the whole of the international community in the aftermath of the Rwanda genocide, combined with the more realistic contemporary conception of peace operations as contained in the Brahimi report, make effective U.N.-sponsored action against a genocide even more likely than in 1994.

While it might take just as long to in fact put American soldiers on the ground to staunch an incipient genocide as it did in 1994, the sight of the United States taking decisive action in the face of genocide, and the presumably visible commitment of the American national leadership to take such decisive action, could make all the difference.

⁵³ Bradshaw, *Frontline: The Triumph of Evil: Transcript* (cited).

⁵⁴ George W. Bush, *National Security Strategy of the United States of America* [Website] (The White House, 17 September 2002 [cited 25 October 2002]); available from www.whitehouse.gov/nsc/nss/pdf.

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